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TOWN CLERK  
ACTON

Acton Plaza Shopping Center  
Amendment #3 Site Plan Special Permit #04/30/71-15  
291, 295, 313 and 315 Main Street and 381 and 401 Massachusetts Avenue  
August 11, 2014

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**Board of Selectmen**

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**THIRD AMENDMENT OF DECISION**  
#04/30/71-15 – Site Plan Special Permit

**Acton Plaza Shopping Center**

August 11, 2014

**GRANTED with Conditions**

Decision of the Acton Board of Selectmen (hereinafter the Board) on the request of Brian C. Levey of Beveridge & Diamond on behalf of E&A Northeast LP, of 21 Custom House Street, Suite 450 Boston MA 02110 (hereinafter the Applicant), dated July 29, 2014 for an amendment of a Site Plan Special Permit dated April 30, 1971, previously amended on May 17, 1994 and June 24, 2013 (together the Original Decision). The subject property is located at 291, 295, 313 and 315 Main Street and 381 and 401 Massachusetts Avenue (hereinafter the Site). The Board considered the request at a duly noticed public meeting on August 11, 2014. Board members Janet Adachi, Peter Berry, Mike Gowing (Chair), Katie Green (Vice Chair), and Franny Osman were present. The minutes of the hearing and submissions upon which this Amendment Decision is based on may be found in the Town Clerk's office or the Board's office at the Acton Town Hall.

## **1. EXHIBITS**

Submitted for the Board's deliberation were the following exhibits:

- 1.1 Cover Letter by Brian C. Levey Esq. of Beveridge & Diamond, dated July 29, 2014,;
- 1.2 Supplemental Information provided by Brian C. Levey Esq. of Beveridge & Diamond as follows:
  - Tab 1: Plan depicting "Lot C" to be purchased by the Applicant, dated 8/25/11;
  - Tab 2: Site Plan Special Permit #4/30/71-15 Decision;
  - Tab 3: Restrictive Agreement, Book 12098/ Page 003;
  - Tab 4: Amendment to Site Plan Special Permit #4/30/71-15 Decision and Site Plan;
  - Tab 5: Second Amendment to Site Plan Special Permit #4/30/71-15 Decision;
  - Tab 6: Site Plan depicting the location of proposed 20 parking space easement on a plan prepared by Bohler Engineering last revised 5/28/2013.
- 1.3 A memo from Bruce Ringwall of GPR to Roland Bartl and Kristen Guichard, dated 08/1/14;
- 1.4 A revised memo from Bruce Ringwall of GPR to Roland Bartl and Kristen Guichard, dated 08/07/14;
- 1.5 Interdepartmental and other communication:
  - Memo from the Planning Department to the Board of Selectmen, dated 08/8/14;
  - Approval Not Required (ANR) Plan for 321 Main Street, approved 04/15/14.

Exhibits 1.1 through 1.4 are referred to herein as the Plan.

## **2 FINDINGS AND CONCLUSIONS**

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The amendment request is for the following:
  - a. To amend the Plan to show a permanent easement for the use of twenty (20) existing spaces for parking by Acton Crossroads, Inc., an abutting property, behind Acton Plaza II as depicted on a plan prepared by Bohler Engineering last revised 5/28/2013;
  - b. To confirm that the Town has not or will not extend the Restrictive Agreement (Book 12098/ Page 003) but rather has allowed the Restriction to expire.
- 2.2 The Applicant has Lot C, as depicted on ANR Plan for 321 Main Street, approved April 15, 2014, under agreement to purchase from Acton Crossroads, Inc.
- 2.3 The revised memo dated August 7, 2014 from Bruce Ringwall of GPR provides calculations showing that the Acton Crossroads, Inc. site will remain below the maximum floor area ratio (FAR) of .2 after the conveyance of Lot C to the Applicant.

- 2.4 The Applicant's and Acton Crossroads, Inc.'s. sites will comply with the 10' setback requirement for paved surfaces and parking spaces from the side yard property line after the conveyance of "Parcel X" as depicted on ANR Plan for 321 Main Street.
- 2.5 The Site contains a total of 618 parking spaces, where only 442 spaces are required. Therefore the Site has a total of 176 extra parking spaces above the requirements set forth in Zoning Bylaw Section 6.3. Granting an easement for 20 parking spaces to the abutting property would not affect the Site's parking compliance.
- 2.6 The proposed Plan changes and the requested amendments of the special permit granted in the Original Decision have been determined to be minor in nature, do not trigger a new Special Permit, and do not warrant a public hearing as they do not expand the ground area, impervious materials, or building floor areas.

### **3 BOARD ACTION**

Therefore, the Board voted unanimously on August 11, 2014 in favor of GRANTING the special permit amendments as the Applicant had requested and as delineated in the Exhibits listed herein, subject to the following conditions.

### **4 CONDITIONS**

The following conditions shall be binding on the Applicant and its successors and assigns. Failure to adhere to these conditions shall render the special permit amendment granted with this decision null and void, and shall constitute grounds for the revocation of any or all building or occupancy permits issued hereunder. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.

- 4.1 The Applicant shall record this Decision at the Middlesex South District Registry of Deeds.
- 4.2 All work on the Site shall be conducted in accordance with the terms of this special permit and shall conform with and be limited to the improvements shown on the Plan as conditioned, modified, and approved herein.

### **5 EFFECT AND SCOPE OF THIS AMENDMENT DECISION**

This Amendment Decision only responds and decides on the limited matters before the Board as outlined herein. Except as herein specified, the Original Decision shall remain in full force and effect.

The Town of Acton Board of Selectmen

  
Mike Gowing, Chair

Copies furnished:

Applicant -	Building Commissioner	Health Director	Acton Water District
Owner	Fire Chief	Police Chief	Historical Commission
certified mail #	Town Engineer	Municipal Properties Director	Assistant Assessor
Town Clerk	Natural Resources Director	Town Manager	

6. APPEALS

Any person(s) aggrieved by the issuance of this Site Plan Special Permit has the right to appeal pursuant to M.G.L., Ch. 40A, §. 17 and shall file such appeal within 20 days after the filing date of this Decision with the Town Clerk.

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

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Eva K. Szkaradek, Town Clerk